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REPORT OF THE INFORMAL PREPARATORY MEETING OF THE OPEN-ENDED INTERGOVERNMENTAL AD HOC COMMITTEE ON THE ELABORATION OF A COMPREHENSIVE INTERNATIONAL CONVENTION AGAINST ORGANIZED TRANSNATIONAL CRIME, HELD AT BUENOS AIRES FROM 31 AUGUST TO 4 SEPTEMBER 1998

INTRODUCTION

1. On the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council approved resolution 1998/14 and recommended it for adoption by the General Assembly at its fifty-third session. Pursuant to that resolution, the Assembly would establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime, and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea. The Assembly would also decide to accept the recommendation of the Commission and the Council to elect Luigi Lauriola (Italy) as the Chairman of the ad hoc committee. In view of the expected favourable action by the Assembly, and in order to prepare for the future work of the ad hoc committee, the first meeting of the informal group of the Friends of the Chair was held at Rome from 17 to 18 July 1998. To enable the continuation of the work on the elaboration of the convention without interruption, the Government of Argentina offered to host an informal preparatory meeting of the ad hoc committee at Buenos Aires from 31 August to 4 September 1998. In connection with the informal preparatory meeting, the informal group of the Friends of the Chair held its second meeting (annex I).

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I. SUMMARY OF THE DISCUSSION

2. The informal preparatory meeting completed the first reading of the outline of options for contents of the international convention against transnational organized crime by reviewing articles 14 through 30. The first reading had begun at the seventh session of the Commission, held at Vienna from 21 to 30 April 1998. For that purpose, the informal preparatory meeting decided to use the working paper submitted by Finland (CICP/CONV/WP.1).

3. In completing the first reading of the outline of options, the informal preparatory meeting discussed the following issues: mutual legal assistance; investigation of offences; transfer of proceedings; recognition of foreign judgements; protection of victims and witnesses; law enforcement cooperation; collection and sharing of information on organized crime; training and technical assistance; prevention; the role of the United Nations and other relevant organizations; relation with other conventions; dispute settlement; and the standard final clauses of the convention.

4. Several suggestions for consolidation of the text and proposals for new or amended provisions were made. These, together with specific observations on either the existing text or the substance of the provisions, were included in the new version of the draft convention contained in document CICP/CONV/WP.21.[1] It was the general understanding of the informal preparatory meeting that this new version of the draft convention was only intended as the basis for discussion and negotiations that would begin at the first meeting of the ad hoc committee scheduled to take place at Vienna from 18 to 29 January 1999, to be preceded by the third meeting of the informal group of the Friends of the Chair, scheduled to take place at Vienna from 5 to 6 November 1998.

5. After the completion of the first reading, the informal preparatory meeting discussed several outstanding issues regarding articles 1 through 13, which had been examined on a preliminary basis at the first meeting of the informal group of the Friends of the Chair.

6. Regarding the statement of objectives and scope of the convention, after extensive discussion, the Chairman noted that apparently no significant progress could be made at the current stage beyond that achieved by the Commission at its seventh session. The Chairman urged delegations to submit substantive proposals to the ad hoc committee at its first meeting in order to advance consideration of the issue. The discussion at the first meeting of the ad hoc committee would be based on the existing text (CICP/CONV/WP.21),[1] the proposals of France, Sweden and Germany[2] and other proposals that delegations might submit in response to the appeal of the Chairman. In connection with the discussion of the scope of the convention, some delegations felt that the convention should somehow address the issue of corruption and bribery. One delegation pointed out that this issue could be dealt with either within the convention or through a separate protocol. While there were no concrete proposals at the current stage, the matter would need to be reviewed at a later time. Some delegations were of the view that the articles related to cooperation between States would to a large extent depend on the scope of the convention. Consequently, States were likely to accept more obligations under the convention if the scope was precisely defined.

7. The delegation of Turkey submitted a paper (CICP/CONV/WP.10)[2] explaining its position on the question of the scope of the convention. It stated its preference for the inclusion in the convention of an illustrative list of offences which would include terrorism. The other delegations that spoke on the issue, while sharing the concern about terrorism, noted that there were numerous international conventions that specifically dealt with the issue of terrorism. They were of the view that terrorism was addressed in other forums, such as the Sixth Committee of the General Assembly.

8. The representative of the International Institute of Higher Studies in Criminal Sciences (ISISC) expressed the willingness of his Institute to host meetings of drafting groups or groups of experts that might be required

to advance the process of the negotiation of the convention or additional international legal instruments that the ad hoc committee would be requested to consider. Various delegations supported the suggestion of possibly holding meetings at the Institute. The Chairman indicated that the offer would be considered as needed.

9. The informal preparatory meeting discussed the additional international legal instruments or protocols whose elaboration the ad hoc committee had been asked to consider. In that connection, the Governments of Austria and Italy submitted a working paper containing elements for an international legal instrument against illegal trafficking and transport of migrants (CICP/CONV/WP.21, annex I).[1] The purpose of the initiative was to provide the international community with a tool that would effectively deal with that particularly heinous form of transnational criminality without criminalizing the behaviour of migrants. In the discussion that ensued, many delegations welcomed the working paper and considered it a good basis for further discussion. One delegation expressed concern about the proposed element regarding the non-criminal liability of migrants. It was suggested by one delegation that the international instruments against illegal trafficking and transport of migrants and against illicit trafficking in women and children should be discussed jointly. Several delegations expressed the view that the two instruments addressed substantively different matters that needed separate discussion, also in order not to jeopardize their finalization. It was suggested, however, that one way to fully explore commonalities and avoid overlap was to discuss the two instruments on consecutive days of the meeting of the ad hoc committee scheduled to take place from 18 to 29 January 1999.

10. In connection with the proposed international legal instrument on the trafficking of women and children, the Chairman called on interested delegations to submit a draft text in time for consideration by the first meeting of the ad hoc committee. Some delegations expressed concern about the potential of overlap between the work of the ad hoc committee and the work of the Committee on the Rights of the Child, which was currently elaborating an optional protocol to the Convention on the Rights of the Child related to the sale of children. It was pointed out, however, that the ad hoc committee was approaching the matter from the perspective of international criminal law and cooperation in criminal matters. Therefore, the likelihood of overlap was limited.

11. The Government of Canada presented a working paper containing elements for discussion in the elaboration of the proposed international legal instrument against illicit manufacturing of and trafficking in firearms, their components and ammunition (CICP/CONV/WP.11).[2] The Government of the United Kingdom offered for consideration the principles and plan of action adopted by a team of senior experts of the seven major industrialized countries and the Russian Federation (Group of Eight), contained in CICP/CONV/WP.5.[3] The delegation of Mexico offered to prepare, in consultation with other interested delegations, a draft document for the first meeting of the ad hoc committee, based on the Convention of the Organization of American States on the matter and the principles and plan of action of the Group of Eight. The Chairman called on interested delegations to prepare a draft text in time for consideration by the ad hoc committee at its first meeting. Several delegations informed the meeting of a number of initiatives currently under way on the issue of firearms and small arms, including the offer of the Government of Switzerland to host an international conference in the year 2000 on the subject that could deal, *inter alia*, with illicit trade in small arms. Many delegations expressed concern about the potential for overlap between those initiatives and the work of the ad hoc committee, and called for coordination not only within the United Nations system and between Governments at the international level, but also at the national level.

II. ADOPTION OF THE REPORT

12. At its ninth plenary meeting, on 4 September 1998, the informal preparatory meeting adopted the present report.

III. ORGANIZATION OF THE MEETING

A. Opening of the meeting

13. In his opening address, the Minister of Justice of Argentina reiterated the unwavering support of his Government to the work of the United Nations in crime prevention and criminal justice in general and to the elaboration of the convention in particular. As Argentina had been one of countries that had proposed the elaboration of a convention at the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994, the meeting at Buenos Aires which launched the process of such elaboration was a source of particular pride for his country. He recognized that there were difficulties in rapidly reaching consensus on a number of issues, including definitions and the scope of application of the convention. However, he considered it crucial that all countries rise to the challenge and expressed his confidence that the negotiation process would be completed by the year 2000. The Minister also recalled the keen interest of his country in action against illicit trafficking in women and children and called for an instrument or protocol that would adequately deal with that form of criminal activity by filling the normative gap that currently existed.

14. The Executive Director of the Office for Drug Control and Crime Prevention of the Secretariat expressed his gratitude to the Government of Argentina for its generosity in acting as host for the informal preparatory meeting. He referred to the current circumstances that had made the convention the essential centrepiece of a new global strategy to attack the structural underpinnings of organized crime worldwide. Organized crime had benefited from globalization of the world economy, imitating legitimate business as it expanded in the global economy. He stressed that in spite of all its growth and universalization, organized crime was a historical phenomenon that had a life cycle with a beginning, a development and an end. The single most important accomplishment in the last 15 years of combating organized crime was to challenge and destroy the myth of invincibility of criminal organizations. The new convention should open the doors for much better cooperation between countries. The Executive Director called for a structure that would allow for practical tools that practitioners could use. The convention should bring about harmonization of laws on issues such as participation in a criminal organization or conspiracy and criminalization of money-laundering. The convention should also ensure that bank secrecy and the lack of transparency in financial transactions no longer constituted barriers to criminal investigations. Witness protection programmes should also figure prominently in the convention, extending to cover cooperating suspects who had proved invaluable to dismantling criminal organizations. The Executive Director also emphasized the importance of the three proposed additional instruments or protocols and asked the Committee to make every effort possible to conclude their elaboration together with the convention.

B. Attendance

15. The informal preparatory meeting was attended by representatives of the following States: Algeria, Angola, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Ecuador, Finland, France, Germany, Greece, Haiti, Ireland, Italy, Japan, Jordan, Kuwait, Lebanon, Lesotho, Mauritius, Mexico, Netherlands, Nicaragua, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, Slovakia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

16. The following United Nations Secretariat units, bodies and specialized agencies were represented: Office of the United Nations High Commissioner for Refugees, United Nations Children's Fund and International Maritime Organization.

17. The following affiliated regional institutes and associate institutes attended: Latin American Institute for the Prevention of Crime and the Treatment of Offenders, International Centre for Criminal Law Reform and Criminal Justice Policy and International Institute of Higher Studies in Criminal Sciences.

18. The following intergovernmental organizations also attended: European Union, International Criminal Police Organization, International Federation of Red Cross and Red Crescent Societies, International Organization for Migration, Organisation for Economic Cooperation and Development and Organization for Security and Cooperation in Europe.

19. The following non-governmental organizations in consultative status with the Economic and Social Council were represented: International Council of Women (general consultative status); Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs) (International Movement of Catholic Students) (special consultative status); National Rifle Association of America/Institute for Legislative Action, Sporting Shooters' Association of Australia (roster).

C. Election of officers

20. The informal preparatory meeting was chaired by Luigi Lauriola (Italy), Chairman-elect of the ad hoc committee.

D. Adoption of the agenda

21. At the first plenary meeting, on 31 August 1998, the informal preparatory meeting adopted the following agenda:

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Completion of the first reading of the outline of options (E/CN.15/1998/5): articles 14-30.
4. Consultations on specific provisions of the draft convention.
5. Discussion of additional international instruments, pursuant to draft resolution II on transnational organized crime (E/CN.15/1998/11).
6. Consideration and adoption of the report of the meeting.
7. Closing of the meeting.

E. Documentation

22. In addition to the background documentation presented by the Secretariat, the informal preparatory meeting had before it working papers submitted by the Governments of Canada, Finland, France, Germany, Sweden, Tunisia, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The documents before the meeting are listed in annex II.

Notes

[1]Issued as A/AC.254/4.

[2]See A/AC.254/5.

Annex I

REPORT OF THE SECOND MEETING OF THE INFORMAL GROUP OF THE FRIENDS OF THE CHAIR OF THE AD HOC COMMITTEE ON THE ELABORATION OF THE CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, HELD AT BUENOS AIRES ON 3 SEPTEMBER 1998

1. The second meeting of the informal group of the Friends of the Chair was convened on 3 September 1998 in connection with the informal preparatory meeting of the ad hoc committee. The informal group had before it an indicative timetable for the elaboration of the convention against transnational organized crime (appendix I). The Secretariat explained the method of elaborating the timetable and indicated that every effort would be made to absorb the additional cost of the meetings indicated therein. However, voluntary contributions would be necessary to strengthen the ability of the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat to provide the ad hoc committee with the substantive and technical servicing that it required.

2. The informal group approved the indicative timetable on the understanding that the Secretariat would try to identify alternative dates for the third meeting of the informal group of the Friends of the Chair and that dates after July 1999 were indicative, since meetings and the durations thereof would depend on the pace of the negotiation process.

3. The Government of the United States announced that it had pledged a voluntary contribution of 511,000 United States dollars for 1998 to the United Nations Crime Prevention and Criminal Justice Fund. One of the purposes of this contribution was to support the process of the development of the convention. The contribution should assist the Centre in covering costs of meetings, including interpretation.

4. The Chairman welcomed the contribution made by the Government of the United States and called upon other States to also contribute extrabudgetary resources.

5. The Chairman drew the attention of the regional groups to the opportunity of beginning consultations on the nominations for the bureau of the ad hoc committee.

Appendix

INDICATIVE TIMETABLE OF MEETINGS OF THE AD HOC COMMITTEE ON THE ELABORATION OF THE CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND OF THE INFORMAL GROUP OF THE FRIENDS OF THE CHAIR

1998

Meeting	*Dates*
Third meeting of the Friends of the Chair	5-6 November

1999[a]

Meeting	*Dates*
First meeting of the ad hoc committee	18-29 January
Second meeting of the ad hoc committee	8-12 March
Third meeting of the ad hoc committee	At least three days during the eighth session of the Commission on Crime Prevention and Criminal Justice (27 April-6 May)
Fourth meeting of the Friends of the Chair	5-9 July
Fourth meeting of the ad hoc committee	4-15 October
Fifth meeting of the Friends of the Chair	22-23 November

2000

Meeting	*Dates*
Fifth meeting of the ad hoc committee	10-21 January
Sixth meeting of the Friends of the Chair	19-23 June
Sixth meeting of the ad hoc committee	7-18 August
Plenipotentiary conference	25-29 September[b]

[a]Dates after July 1999 are indicative. The number and duration of meetings will depend on the pace of the negotiation process.

[b]The duration of the proposed plenipotentiary conference will need to be reviewed.

Annex II

LIST OF DOCUMENTS

Document number	*Title or description*
E/CN.15/1998/5	Report of the meeting of the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime (Warsaw, 2-6 February 1998)
E/1998/30	Report on the seventh session of the Commission on Crime Prevention and Criminal Justice, chapter I (section A, draft resolution II; section B, draft resolutions III, IV and V) and annexes III and V.
CICP/CONV/WP.1	Working paper by Finland–options for the (draft) United Nations convention against transnational organized crime
CICP/CONV/WP.2	Proposal by France–United Nations convention against organized [transnational] crime
CICP/CONV/WP.3	Comments of Tunisia on the draft United Nations framework convention against organized crime
CICP/CONV/WP.4	Report of the first meeting of the informal group of the Friends of the Chair of the ad hoc committee on the elaboration of the convention against transnational organized crime (Rome, 17-18 July 1998)
CICP/CONV/WP.5	Combating illegal manufacturing of and trafficking in firearms, their parts and components and ammunition, submitted by the United Kingdom of Great Britain and Northern Ireland
CICP/CONV/WP.6	Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials
CICP/CONV/WP.7	Proposal by France and Sweden on extradition
CICP/CONV/WP.8	Non-paper submitted by Germany
CICP/CONV/WP.9	Inter-American Convention on International Traffic in Minors
CICP/CONV/WP.10	Paper submitted by the delegation of Turkey
CICP/CONV/WP.11	Canadian discussion paper on the firearms protocol
CICP/CONV/WP.12	Proposed consolidation of article 19 submitted by Finland
CICP/CONV/WP.13	United States proposal on articles 18 and 23
CICP/CONV/WP.14	Elements for an international legal instrument against illegal trafficking and transport of migrants, proposal submitted by Austria and Italy
CICP/CONV/WP.15	Proposed consolidation of article 18 submitted by Finland
CICP/CONV/WP.16	Proposed consolidation of article 21 submitted by Finland

Document number	*Title or description*
CICP/CONV/WP.17	United States proposal on article 19
CICP/CONV/WP.18	United States proposal on article 4 *bis*
CICP/CONV/WP.19	Non-paper submitted by Switzerland containing views on marking of small arms and light weapons
CICP/CONV/WP.20	Draft report of the informal preparatory meeting of the ad hoc committee
CICP/CONV/WP.21	Draft United Nations convention against transnational organized crime